

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

ALPINE SECURITIES CORPORATION,

Defendant.

Civil No. 1:17-CV-04179-DLC

Honorable Judge Denise L. Cote
Magistrate Judge Ronald L. Ellis

ECF CASE

**DEFENDANT’S NOTICE OF MOTION FOR RECONSIDERATION OF THE
COURT’S PRIOR RULINGS ON SUMMARY JUDGMENT IN LIGHT OF
THE SUPREME COURT DECISION IN *KISOR* v. *WILKIE***

PLEASE TAKE NOTICE that Defendant Alpine Securities Corporation (“Alpine”), by and through undersigned counsel, moves this Court for reconsideration of its previous rulings on summary judgment dated March 30, 2018 and December 11, 2018, based on the following grounds that, on June 29, 2019, the U.S. Supreme Court ruled in *Kisor v. Wilkie*, No. 18-15, --- S. Ct. ---, 2019 WL 2605554, that *Auer* deference survives but only with the prerequisites and limitations articulated by the *Kisor* Court; this Court’s previous opinions on summary judgment relied extensively on *Auer* deference in its rulings in favor of the SEC; this Court did not, however, engage in the multistep analysis of statutory construction now mandated by *Kisor* prior to relying on and applying *Auer* deference; this Court did not apply the analysis and limitations prescribed by *Kisor* in its assessment of the agency statements to which deference is applicable; and accordingly, reconsideration of the Court’s previous rulings on summary judgment is warranted because *Kisor* is an intervening change or development of controlling law.

Based on the foregoing, and for the reasons stated in the accompanying memorandum of law, Alpine respectfully requests that the Court reconsider its rulings in its previous summary judgment opinions.

PLEASE TAKE FURTHER NOTICE that pursuant to Local Rule 6.1, any opposing affidavits and answering memoranda shall be served within fourteen days after service of the moving papers and any reply affidavits and memoranda of law shall be served within seven days after service of the answering papers.

DATED this 3rd day of July, 2019.

/s/ Maranda E. Fritz

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